

REMARKS

The present application was filed on February 27, 2004 with claims 1-20. In an Amendment and Response to Office Action filed by Applicants on November 30, 2007, claim 9 was canceled without prejudice. Claims 1-8 and 10-20 are pending. Claims 1, 10, 11, 16, 17 and 20 are independent claims.

In the final Office Action, the Examiner withdraws the previous §101 rejection of claim 16 but dictates that the specification must be amended to support the phrase “computer readable storage medium.” Applicants respectfully assert that the specification already sufficiently supports the subject phrase.

For example, the specification at page 11, lines 11-13, states that “[e]xamples of computer readable media include recordable-type media, such as a floppy disk, a hard disk drive, a RAM, CD-ROMs, DVD-ROMs” Page 11, lines 1-4, states that “software components including instructions or code for performing the methodologies described herein may be stored in one or more of the associated memory devices (e.g., ROM, fixed or removable memory) and, when ready to be utilized, loaded in part or in whole (e.g., into RAM) and executed by a CPU.”

Thus, a review of the specification including the above-cited pages/lines will make clear the fact that the specification sufficiently supports the phrase “computer readable storage medium.”

Further, in the final Office Action, the Examiner maintains the rejection of claims 1-8 and 10-20 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication No. 2001/0037402 filed in the name of Schneider (hereinafter “Schneider”).

In this response, Applicants again traverse the §102(e) rejection. Applicants respectfully request reconsideration of the application in view of the remarks below.

Regarding the §102(e) rejection of claims 1-8 and 10-20, Applicants initially note that MPEP §2131 specifies that a given claim is anticipated “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference,” citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the “identical invention . . . in as complete detail as is contained in the . . . claim,” citing Richardson v. Suzuki Motor Co.,

868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants again respectfully traverse the §102(e) rejection on the ground that the Schneider reference fails to teach or suggest each and every limitation of claims 1-8 and 10-20 as alleged.

Amended claim 1 is directed to a method of determining an accuracy of content to be delivered in a client-server system based on a request from a client, comprising the steps of: obtaining the request; determining a characteristic of at least one server or at least one cache of the client-server system; and determining a level of data accuracy associated with content to be delivered to the client in response to the request, the determination being based on: (i) the determined characteristic of the at least one server or the at least one cache; and (ii) at least one preference associated with the client

In characterizing Schneider as disclosing each and every limitation of the claimed invention, the Examiner continues to cite paragraphs [0016], [0018], [0020], [0023], [0025], [0027], [0028] and [0029]. However, none of these or any other portions of Schneider determine a level of data accuracy associated with content to be delivered to the client, as recited in the claimed invention, but rather they determine a transmission method to be used to transmit data. Thus, while a performance metric or user preference may be considered in Schneider, such criteria is used to determine something completely different than that which is determined by the claimed invention.

Again, the final Office Action (in point A at page 5) contends that Schneider teaches the claim limitation of “determining a level of data accuracy associated with content to be delivered to the client in response to the request” by disclosing at paragraph [0028] a “metric for quantifying the model quality provided by a particular transmission method.” Paragraph [0028] goes on to explain that “[q]uality will be measured as a number between, for example, 0.0 and 0.1, taking into account levels of freedom of interaction, rendering speed, and subjective image quality as follows: Q.sub.i represents the quality of the entire model received using transmission method i and q.sub.i represents the quality of the first manipulable unit of the data set using transmission method i. q.”

Thus, this metric in Schneider, which quantifies the “quality” of a transmission model that may be selected, takes into: (1) account levels of freedom of interaction; (2) rendering speed; and (3) subjective image quality. Freedom of interaction in the Schneider metric clearly has nothing to do

with “determining a level of data accuracy associated with content,” as recited in the claim. Likewise, rendering speed in the Schneider metric clearly has nothing to do with “determining a level of data accuracy associated with content,” as recited in the claim. Lastly, to the degree that the Office Action suggests that subjective image quality in the Schneider metric might be tantamount to “determining a level of data accuracy associated with content,” Applicants respectfully point out that an image may be of the highest order of transmission quality - but its content may be 100% inaccurate. Thus, nothing taken into account by the Schneider metric is used for “determining a level of data accuracy associated with content,” as recited in the claim.

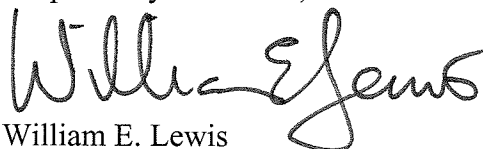
Furthermore, the final Office Action (in point B at page 5) states that Applicants argue that “Schneider does not teach determining a transmission method to be used to transmit data.” Applicants argue no such thing. In fact, the Examiner seems to be wrongly referring to the statement made in Applicants previous response and reiterated above that none of the portions of Schneider determine a level of data accuracy associated with content to be delivered to the client, as recited in the claimed invention, but rather they determine a transmission method to be used to transmit data. That is, Schneider in fact is all about determining a transmission method to be used to transmit data but has nothing whatsoever to do with determining a level of data accuracy associated with content to be delivered to the client, as recited in the claimed invention. Thus, point B raised at page 5 indicates that the final Office Action fails to appreciate the express words recited in the claims, and the words pointed out in Applicants’ previous response.

Accordingly, it is believed that the teachings of Schneider fail to meet the limitations of claim 1. Independent claims 10, 11, 16, 17 and 20 include limitations similar to those of claim 1, and are therefore believed allowable for reasons similar to those described above with reference to claim 1.

Regarding the claims that depend from claims 1, 11 and 17, Applicants assert that such claims are patentable not only due to their respective dependence on claims 1, 11 and 17, but also because such claims recite patentable subject matter in their own right.

In view of the above, Applicants believe that claims 1-8 and 10-20 are in condition for allowance, and respectfully request withdrawal of the §102(e) rejection.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William E. Lewis". The signature is fluid and cursive, with the first name "William" being more prominent and the last name "Lewis" following in a similar style.

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